

REMARKS

This is a full and timely response to the outstanding final Office Action mailed October 18, 2002. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

1. Present Status of Patent Application

The Office Action rejected independent claim 19 as well as dependent claims 20 – 28 under 35 U.S.C. § 103(a) as being unpatentable over *Yoshikawa et al.* (U.S. Patent No. 6,249,532), hereinafter *Yoshikawa*, in view of *Land et al.* (U.S. Patent No. 5,751,706), hereinafter *Land*. Thus, presently pending claims 19 – 28 stand rejected. Applicants respectfully traverse all the rejections and any findings of official notice.

2. Response To Objections/Rejections

Response To Claim Rejections Based Under 35 U.S.C. Section 103

Independent claim 19 and claims 20 – 28, which depend therefrom, were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Yoshikawa* in view of *Land*. Applicants respectfully traverse this rejection. Applicants' independent claim 19 states:

19. A method of providing statistics for billing users of data services provided over a cable television network comprising the steps of
monitoring session duration of a link to a network access device
and storing data related thereto,
monitoring *amount of data transferred to and from* a network
access device and storing data related thereto, and

monitoring *amount of data lost* in said link and storing data related thereto, the statistics permitting a flexible billing structure.

(Emphasis Added.)

Yoshikawa describes a "billing system for use in a chargeable program broadcasting [that] is capable of reliably *billing a subscriber for program reception* while preventing unauthorized reception thereof." (See abstract of U.S. Patent No. 6,249,532, emphasis added.) Applicants submit that "monitoring amount of data" as recited in independent claim 19 is different from billing based on downloading a television program as found *Yoshikawa*. Applicants respectfully request that the Examiner particularly point out the lines in *Yoshikawa*, which indicate that the television program in the pay-per-view system is billed based on the "amount of data transferred" as recited in Applicants' independent claim 19. If, in the opinion of the Examiner, keeping track of whether a television has been downloaded or watched in *Yoshikawa* is the same as "monitoring amount of data transferred" as recited in independent claim 19, Applicants wish to respectfully reserve the right to pursue the issue on appeal.

Similarly to *Yoshikawa*, *Land* also does not involve "monitoring amount of data transferred" as recited in independent claim 19. Instead *Land* performs billing based on the duration of the packetized voice phone call and not based upon the "amount of data transferred." Thus, *Yoshikawa*, *Land*, as well as *Yoshikawa* and *Land* in combination do not disclose, teach, or suggest "monitoring [the] amount of data transferred" as recited in Applicants' independent claim 19.

Furthermore, Applicants previous response mentioned that independent claim 19 recites "monitoring amount of data transferred *to and from*." (Emphasis added.) This

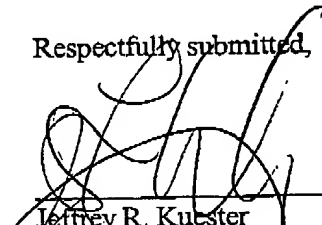
argument was not responded to in the last Office Action. Even assuming for the sake of argument that *Yoshikawa* and/or *Land* show “monitoring amount of data transferred”, neither *Yoshikawa* nor *Land* show “monitoring amount of data transferred *to and from*” as recited in Applicants’ independent claim 19. (Emphasis added.) *Yoshikawa* involves downloading pay-per-view television programs. However, these television programs of *Yoshikawa* are not transferred back upstream in the cable network. Thus, even assuming the Office Action’s position that a video program is an “amount of data” without conceding the point, the video programs of *Yoshikawa* are only transferred downstream and not “transferred to and from” as recited in independent claim 19. Furthermore, *Land* also does not show “monitoring amount of data transferred *to and from*” as recited in Applicants’ independent claim 19. Thus, *Yoshikawa*, *Land*, as well as *Yoshikawa* and *Land* in combination do not disclose, teach, or suggest “monitoring [the] amount of data transferred *to and from*” as recited in Applicants’ independent claim 19. (Emphasis added.)

For at least these reasons, Applicants submit that independent claim 19 and dependent claims 20 – 28, which depend from claim 19, are allowable over *Yoshikawa* in view of *Land*. Thus, Applicants’ claims 19 – 28 are allowable over the combination of *Yoshikawa* and *Land*. Applicants expressly reserve all rights to pursue an appeal based on these arguments.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed and that the pending claims of 19 - 28 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,



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